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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/406,570      | 09/24/1999  | AKIHIKO SHIMIZU      | 2271/57219-A        | 1757             |

7590 03/27/2003

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EXAMINER

PSITOS, ARISTOTELIS M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2653

DATE MAILED: 03/27/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/406,570

Applicant(s)

SHIMIZU ET AL.

Examiner

Aristotelis M Psitos

Art Unit

2653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: all claims previously pending.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.

10. ☒ Other: No copy of the cited decision was attached to applicants' papers.

Aristotelis M Psitos  
Primary Examiner  
Art Unit: 2653

Continuation of 2. NOTE: Applicants' amendments to the independent claims introduce limitations not previously searched & or considered. Hence, at the very least a new search and a review of the art of record with respect to this newly introduced limitation must be performed, which are not performed at the present time juncture under present USPTO practice. If applicants are desirous of such limitation(s), then the examiner strongly recommends the filing of a continuing application. Furthermore, the newly submitted limitations are not drawn to product limitation(s), but to signal processing limitations, and hence would introduce problems under 35 USC 112..

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments focus on the cited case law to distinguish over the examiner's previous position with respect to claims 8-12. The cited case is not controlling. The cited case deals with claim interpretation of a PATENT, and not the issues presented in In re Mayhew. Additionally, the remaining arguments are drawn to limitations not present in the claims, hence the previous positions are maintained..